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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/356,543    07/19/99    BARNHART

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021005    TM02/0802  
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EXAMINER

RIMELL, S

ART UNIT

PAPER NUMBER

2166

DATE MAILED:

08/02/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/356,543

Applicant(s)

BARNHART ET AL.

Examiner

Sam Rimell

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

Claims 5, 13 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 depends from claim 1 and refers to "changes in guidelines". Since claim 1 never defined guidelines, it is not understood how the processor could handle changes to guidelines. Claim 5 should apparently depend from claim 4. Claim 13 and 20 contain the same problem, referring to changes in guidelines when the claims from which they depend do not make any mention of guidelines. Claim 13 should depend from claim 12 and claim 20 should depend from claim 19.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6-12, 14-19 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dorne ('293) in view of Ballantyne et al. ('821).

Dorne discloses a computer having a memory to store a software program (FIGS 2A-8B) and a physician interface (108, 116). The memory can store patient demographic information (FIG. 2B), and patient diagnosis information (FIG. 3B).

The patient diagnosis information can be sorted into different categories (left side of FIG. 3B).

The patient records can be sorted by the location of the patient's name in the memory. FIG. 2C illustrates a sorting process where the patient's name is sorted from the memory.

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The software of Dorne provides guideline notifications associated with different billing codes (FIG. 3G).

All of the billing code and diagnosis codes illustrated by Dorne are specific to physicians specialized in cardiology (FIGS 3A-3G).

The system of Dorne further provides menus for medical procedures (lower right corner of FIG. 3G) and management (lower left corner of FIG. 3G).

Dorne differs from the claims in that it does not disclose a handheld processor that includes an interface to communicate with an interface device to download data.

However, FIG. 1 of Ballantyne et al. discloses a personal digital assistant (PDA) that comprises a physician interface (writing surface, col. 14 line 25) and an additional interface to permit communication of data to a nursing station computer via wireless link (col. 12, lines 35-37). The Ballantyne et al. device is specifically tailored to enter patient information into a patient health record (col. 13, lines 29-37) and down load the data to a nursing station (col. 14, lines 30-31).

It would have been obvious to one of ordinary skill in the art to modify the software program Dorne to be applied to the PDA of Ballantyne et al. so as to permit the physician to enter data while performing rounds in a hospital and thus improve healthcare quality (col. 2, lines 55-62 of Ballantyne et al.).

In addition, the usage of a bar code scanner to enter data into a PDA would have been obvious to one of ordinary skill in the art as a choice of design. Examiner takes Official Notice that Bar code scanners are well known in the art as a standard data input device to computers.

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Claims 5, 13 and 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.



Sam Rimell  
Primary Examiner  
Art Unit 2166